



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,466	02/10/2004	Meghan M. Barni	44442.00001	1348

7590 06/02/2008  
David H. Judson  
Locke, Liddell & Sapp  
Suite 2200  
2200 Ross Avenue  
Dallas, TX 75201

EXAMINER
----------

JARRETT, SCOTT L

ART UNIT	PAPER NUMBER
----------	--------------

3623

MAIL DATE	DELIVERY MODE
-----------	---------------

06/02/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/775,466	<b>Applicant(s)</b> BARNI, MEGHAN M.	
	<b>Examiner</b> SCOTT L. JARRETT	<b>Art Unit</b> 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This Non-Final Office Action is in response to Applicant's submission filed April 10, 2004. Currently Claims 1-9 are pending.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-9 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. The public use or sale of the invention sold by the Applicant and/or Assignee under at least the Totalview product name is evidenced by at least the following references:

I. IEX Enhances Award-Winning Workforce Management Solution (2001), herein after reference A; and

II. Workforce optimization takes center stage (2003), herein after reference B.

Regarding Claims 1-9 TotalView teaches a system and method comprising (reference B, Column 2, Page 1):

- during a given time period, enabling a set of entities to identify a given schedule pattern set (e.g. shift, work schedule, etc.) and a set of one or more bids with respect to one or more schedules associated with the schedule pattern, irrespective of

Art Unit: 3623

seniority or ranking (reference A: Paragraphs 2, 4, Page 1; Paragraphs 1, Bullet 3, Page 2);

- at the close of the time period selecting a set of entities for scheduling with respect to the schedule pattern set (reference A: Abstract; Paragraph 2, Page 2);

- assigning the selected entities to one or more candidate schedules associated with the pattern set (reference A: Abstract; Paragraph 2, Page 2);

- wherein one or more of the steps are performed at least in part using one or more processing devices (reference A: Abstract);

- ranking the one or more bids associated with the pattern set (Paragraph 1, Page 2; reference B: Column 2, Paragraphs 2-3, Page 1).

An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows: please provide manuals, presentations, press releases, brochures or other 'materials' disclosing the schedule bidding capabilities of IEX's Totalview and/or WebStation products.

Applicant is reminded that failure to fully reply to this requirement for information will result in a holding of abandonment.

Art Unit: 3623

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by

Narasimhan et al., U.S. Patent Publication No. 2005/009692

Regarding Claims 1 and 9 Narasimhan et al. teach a system and method comprising (Figures 5, 6A; Table 1):

- during a given time period (Paragraphs 0049-0050), enabling a set of entities to identify a given schedule pattern set (e.g. shift, work schedule, etc.) and a set of one or more bids with respect to one or more schedules associated with the schedule pattern, irrespective of seniority or ranking (e.g. by age, user preferences, etc.;

Paragraphs 0008, 0015-0016, 0043, 0045; Figure 5);

- at the close of the time period selecting a set of entities for scheduling with respect to the schedule pattern set (Paragraphs 0043, 0045, 0049; Figure 6A); and

- assigning the selected entities to one or more candidate schedules associated with the pattern set (Paragraphs 0007, 0009, 0060; Figure 7);

- wherein one or more of the steps are performed at least in part using one or more processing devices (Paragraphs 0035, 0071; Figure 5, Element 502).

Art Unit: 3623

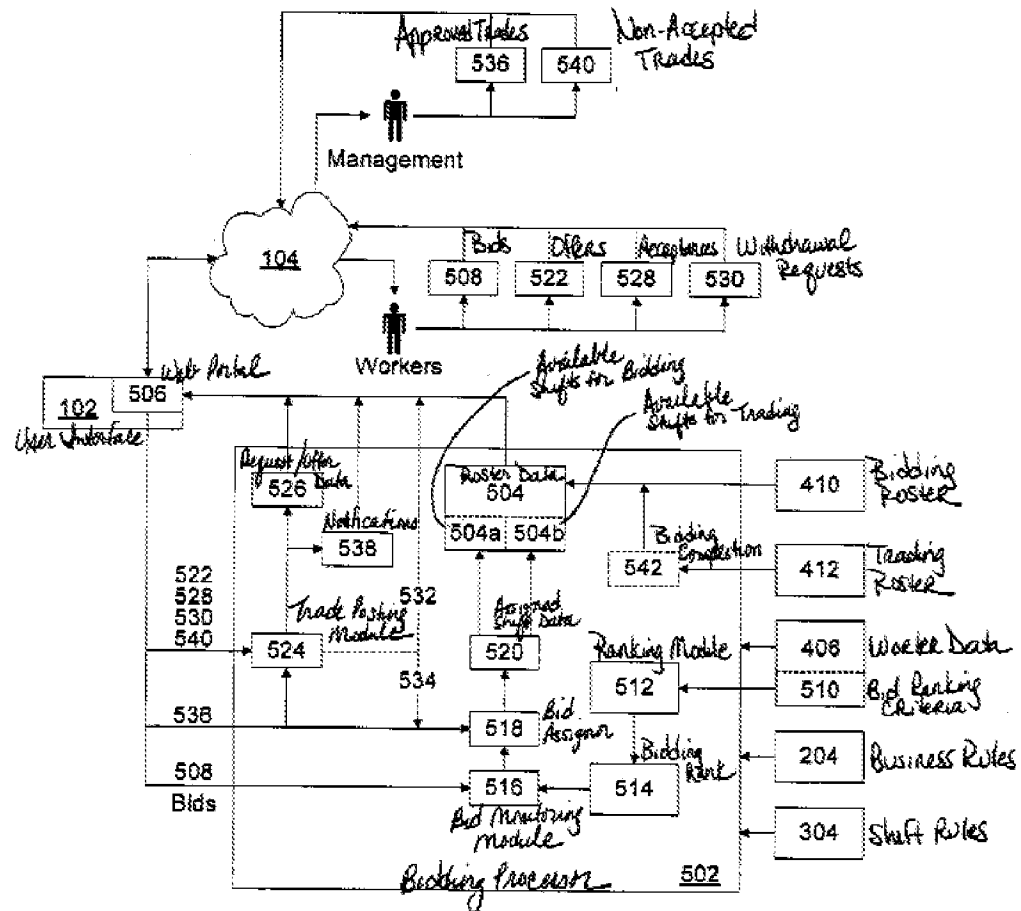


FIG. 5

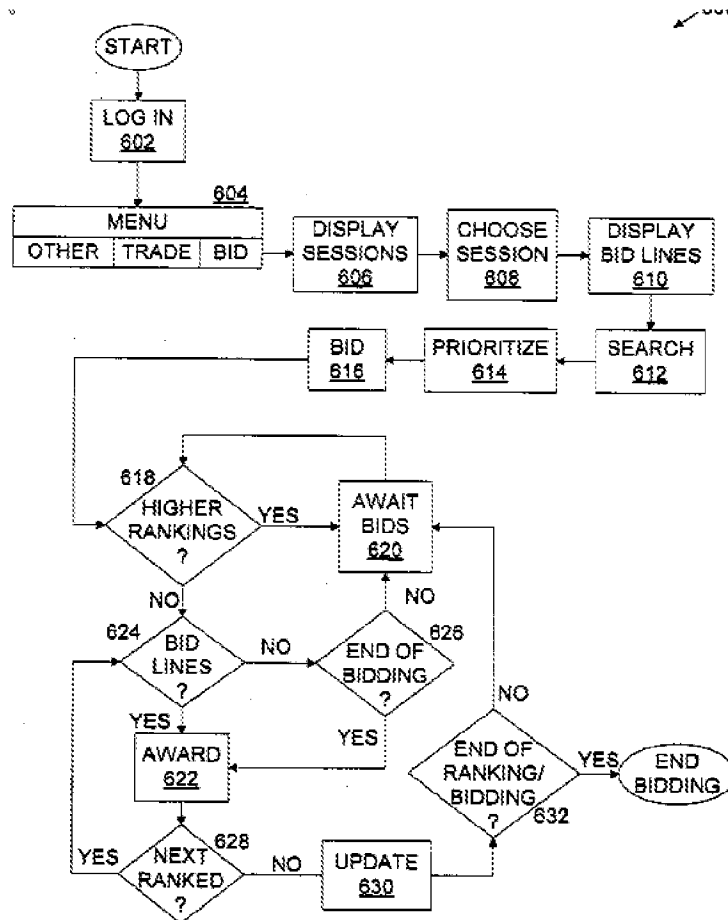


FIG. 6A

Regarding Claim 2 Narasimhan et al. teach a system and method further comprising enabling entities to identify a set of sorting (ranking, priority, order, etc.) preferences with the pattern set (Paragraphs 0016, 0043, 0045, 0053; Figure 5, Elements 508, 514).

Regarding Claim 3 Narasimhan et al. teach that the system and method further comprises enabling an entity to identify a new schedule pattern set associated sorting

Art Unit: 3623

preferences during the time period (Paragraphs 0016, 0043, 0045, 0053; Figure 5, Elements 508, 514).

Regarding Claim 4 Narasimhan et al. teach a system and method further comprising enabling an entity to select a different schedule pattern set and to identify a set of one or more bids associated with the different schedule pattern during the time period (Paragraphs 0043, 0045, 0053; Figure 5, Elements 508, 514).

Regarding Claim 5 Narasimhan et al. teach a system and method further comprising the entity ranking (prioritize, order, sort, rate, etc.) the set of one or more bids associated with the schedule pattern set (Paragraphs 0016, 0043, 0045, 0051 0053; Figure 5, Elements 508, 510, 512, 514, 516).

Regarding Claim 6 Narasimhan et al. teach a system and method further comprising automatically ranking one or more bids associated with the schedule pattern set (Paragraphs 0016, 0043, 0045, 0053; Figure 5, Elements 508, 510, 512, 514, 516).

Regarding Claim 7 Narasimhan et al. teach a system and method further comprising assigning a schedule to at least one entity that did not provide a bid for any candidate schedules that are associated with the schedule pattern set (Paragraphs 0017, 0053, 0059).



Regarding Claim 8 Narasimhan et al. teach a system and method further comprising deselecting a set of the entities for scheduling with respect to the schedule pattern set (Paragraphs 0016, 0063).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Stannard, U.S. Patent No. 4,845,625, teach a system and method enabling a set of entities to identify a give schedule pattern set and one or more bids with respect to the one or more schedule pattern sets; selecting a given set of entities for scheduling with respect to the schedule pattern set; assigning the set of entities to one or more candidate schedules associated with the pattern set; wherein the one or more steps are performed at least in part using one or more processors; enabling entities to rank/prioritize one or more bids associated with the schedule pattern set.

- Green, U.S. Patent No. 6,192,346, teach a system and method for schedule bidding comprising assigning schedule pattern(s) based on ranked/prioritized bids.

- O'Brien, U.S. Patent No. 6,587,831, teach a system and method for assigning schedule patterns (shifts) to one or more entities by enabling the entities to bid on the schedule patterns.

- Bucci et al., U.S. Patent No. 6,823,385, teach a system and method for scheduling workforce entities.

- Dellevi et al., U.S. Patent No. 6,957,188, teach a system and method for enabling entities to trade schedule patterns/work schedules.
- Goto et al., U.S. Patent No. 7,343,316, teach a system and method for workforce scheduling and assignment.
- Rajasenan et al., U.S. Patent Publication No., 2002/0087377, teach a system and method enabling set of entities to, irrespective of seniority or ranking, to identify a schedule pattern set and one or more bids associated with the schedule pattern set and assigning the set of entities to one or more of the schedules.
- Ossip et al., U.S. Patent Publication No. 2003/0018509, teach a system and method enabling entities to bid (sell/trade) on schedule patterns.
- Fleischer, The Time Machine (2002), teaches the old and well known utilization of schedule bidding systems to assign users to schedule patterns (circa 1974) including at least two commercially available workforce management systems/methods having schedule bidding capabilities (IEX's TotalView, OdySoft's Calabrio). Fleischer further teaches that enabling entities to identify a set of one or more bids with respect to one or more schedule patterns irrespective of their seniority or ranking is a desirable feature (Paragraph 8, Page 11).
- Spraetz (of IEX Corporation), Out with the new, in with the old (2001), teaches the well known and common use of schedule bidding and preference scheduling systems and methods.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SCOTT L. JARRETT whose telephone number is (571)272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Van Doren Beth can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott L Jarrett/  
Primary Examiner, Art Unit 3623